

In the Matter of MIDWEST METAL STAMPING COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS, LOCAL 1565

Case No. C-726.—Decided July 26, 1938

Metal Stamping Industry—Settlement: stipulation providing for withdrawal of recognition from and disestablishment of company-dominated union; reinstatement of three employees, back pay to eight employees—*Order:* entered on stipulation.

Mr. Hyman A. Schulson, for the Board.

Cross & Hamill, by *Mr. W. Keith Hamill*, of Newton, Iowa, for the respondent.

Mr. Max Williams and *Mr. Dale Braley*, of Kellogg, Iowa, for the Independent.

Mr. Francis M. Davis, of Newton, Iowa, for the I. A. M.

Mr. D. R. Dimick, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by International Association of Machinists, Local 1565, herein called the I. A. M., the National Labor Relations Board, herein called the Board, by Leonard C. Bajork, Regional Director for the Thirteenth Region (Chicago, Illinois) issued its complaint dated June 17, 1938, against Midwest Metal Stamping Company, Kellogg, Iowa, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint, accompanied by notice of hearing, were duly served upon the respondent and the I. A. M.

Pursuant to the notice, a hearing was held at Newton, Iowa, on June 23 and 24, 1938, before J. J. Fitzpatrick, the Trial Examiner duly designated by the Board. The Board and the respondent were represented by counsel; the I. A. M. was represented by its president; and all participated in the hearing. The Independent Metal Work-

ers Union, herein called the Independent, a labor organization alleged in the complaint to be dominated by the respondent, appeared and without objection participated in the hearing. The Independent was represented by its president and secretary.

At the commencement of the hearing, the Trial Examiner granted a motion by the I. A. M. to amend its charges. The Trial Examiner also granted a motion by counsel for the Board to amend the complaint to conform to the charges, as amended, by adding the names of three persons to those alleged in the original complaint to have been discriminatorily discharged by the respondent within the meaning of Section 8 (3) of the Act. Upon motion by the respondent, the Trial Examiner ordered a continuance until June 25, 1938. Upon agreement of all parties, the hearing was resumed on June 24, 1938. A motion by counsel for the Board dismissing the charges in the complaint covering four persons was granted. The rulings of the Trial Examiner are hereby affirmed.

Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. Counsel for the Board introduced in evidence certain formal papers and a stipulation entered into by counsel for the Board, the respondent, the I. A. M., and the Independent.

The stipulation provides:

It is hereby stipulated and agreed by and between Midwest Metal Stamping Company, hereinafter called the respondent, International Association of Machinists, Local 1565, hereinafter called the I. A. M., Independent Metal Workers' Union, hereinafter called the Independent, and Hyman A. Schulson, counsel for the National Labor Relations Board that:

I.

The respondent is, and has been, since March 17, 1927, a corporation organized and existing under and by virtue of the laws of the State of Iowa, having its principal office and manufacturing plant, hereinafter called the Plant, in the City of Kellogg, Jasper County, State of Iowa, and is now and has continuously engaged in the plant in the manufacture, sale, and distribution of smoking stands, chrome, copper, zinc and nickel plating, stamping dies, screw caps, light sockets, refrigerator lockers, and other products. The raw materials used by the respondent in the course and conduct of its business and in the operation of its plant have been and are as follows: Sheet steel, strip steel, bar steel, sheet brass, smoking stands, rivets, screws, bolts, nuts, wires, lacquer, etc. The approximate total cost of the raw mate-

rials used by the respondent during the period from January 1, 1937, to December 31, 1937, inclusive, amounted to \$277,000.00. During the same period the respondent has purchased 98% of its raw materials valued at about \$271,460.00 in states other than the State of Iowa and 2% of its raw materials valued at about \$5,540.00 from points within the State of Iowa. The value of the finished products manufactured by the respondent amounted to \$542,000.00 during the same period. During the same period the respondent has sold and shipped by rail and truck approximately 10% of its finished products valued at about \$54,200.00 into states other than the State of Iowa and 90% of its finished products valued at about \$486,800.00 into the State of Iowa.

The respondent admits that it is engaged in interstate commerce within the meaning of Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, hereinafter called the Act.

II

It is further stipulated and agreed by and between the parties that upon the basis of the record in the above captioned case and this stipulation, if approved by the National Labor Relations Board, hereinafter called the Board, an order may forthwith be entered by the Board providing as follows:

1. The respondent, Midwest Metal Stamping Company, and its officers, agents, successors, and assigns, shall:

(a) Cease and desist from:

(1) In any manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section (7) of the Act;

(2) In any manner discouraging membership in the International Association of Machinists, Local 1565, or any other labor organization of its employees, or encouraging membership in Independent Metal Workers' Union by discriminating in regard to hire or tenure of employment, or any term or condition of employment, or by threats of such discrimination;

(3) Giving effect to its agreement with the Independent Metal Workers' Union signed on July 5, 1937.

2. Take the following affirmative action which will effectuate the policies of the Act:

(a) Offer to Ralph Bates, Francis Davis, Menvil Stepp, immediate reinstatement to their former positions without prejudice to their seniority and other rights and privileges;

(b) Within a week after the Board's approval of this stipulation pay back pay by check One Hundred Dollars (\$100.00) to each of the following persons, respectively:

Ralph Bates, Kellogg, Iowa;

Everett Bell, 1450 East 16th Street, Des Moines, Iowa;

Francis Davis, 311 First Street S, Newton, Iowa;

Oscar Halbloom, 911 Locust Street, Des Moines, Iowa;

Marion Huisman, United States Post Office, General Delivery, Davenport, Iowa;

Donald Miller, Sully, Iowa;

Mark Sandusky, 2nd Street, Carbon Cliff, Illinois; and

Menvil Stepp, Route 1, Grinnell, Iowa;

(c) Withdraw all recognition from the Independent Metal Workers' Union as the representative of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, and completely disestablish the Independent Metal Workers' Union as the representative of its employees or any of them for the purposes of collective bargaining as provided in the following paragraph;

(d) Inform in writing the officers of the Independent Metal Workers' Union that the latter organization has been formed and administered in violation of the Act, and that the respondent will not in any manner deal with or recognize the Independent Metal Workers' Union for the purposes of collective bargaining on behalf of the respondent's employees;

(e) Post immediately in conspicuous places throughout all departments of its plant and maintain for a period of thirty (30) consecutive days from the date of posting, notices to its employees stating:

(1) That the respondent will cease and desist in the manner aforesaid;

(2) That the respondent's agreement with the Independent Metal Workers' Union signed on July 5, 1937, is null, void, and of no effect;

(3) That the respondent will not discharge or in any manner discriminate in regard to hire or tenure of employment or any term or condition of employment of members of the International Association of Machinists, Local 1565, or any other labor organization, or any person assisting such organization, by reason of such membership or assistance.

3. Notify the Regional Director for the Thirteenth Region in writing within ten (10) days from the date of the Board's order what steps the respondent has taken to comply therewith.

Upon the Board's issuance of an order based upon terms and provisions of the stipulation and agreement as herein set out, the respondent, the Independent Metal Worker's Union, and the International Association of Machinists, Local 1565, expressly consent to the entry by the appropriate United States Circuit Court of Appeals of an enforcement order embodying the terms of the Board's order, and waive notice of the Board's application therefor.

The Independent Metal Workers' Union agrees to disestablish and dissolve itself as a labor organization and as representative of the respondent's employees, or any of them, for the purposes of collective bargaining with respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment.

On July 2, 1938, the Board, acting pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered that the proceeding be transferred to and continued before the Board for the purpose of entry of a decision and order by the Board pursuant to the provisions of the above stipulation. The Board hereby approves the stipulation.

Upon the basis of the stipulation and the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The respondent, Midwest Metal Stamping Company, is a corporation organized under the laws of the State of Iowa, having its principal office and manufacturing plant in Kellogg, Iowa. It is engaged in the manufacture, sale, and distribution of smoking stands, chrome, copper, zinc and nickel plating, stamping dies, screw caps, light sockets, and other products.

During the period from January 1, 1937, to December 31, 1937, 98 per cent of the raw materials used in its manufacturing process were shipped to it from points outside of the State of Iowa. The approximate total cost of the raw materials used by the respondent during this period was \$277,000. The value of the finished products manufactured by the respondent during the same period amounted to \$542,000. Approximately 10 per cent of its finished products were shipped into States other than the State of Iowa.

We find that the operations of the respondent constitute trade, traffic, and commerce among the several States.

The respondent admits that it is engaged in interstate commerce within the meaning of the Act.

ORDER

On the basis of the above findings of fact and the above stipulation, and upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Midwest Metal Stamping Company, Kellogg, Iowa, and its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) In any manner interfering with, restraining, or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act;

(b) In any manner discouraging membership in the International Association of Machinists, Local 1565, or any other labor organization of its employees, or encouraging membership in Independent Metal Workers' Union by discriminating in regard to hire or tenure of employment, or any term or condition of employment, or by threats of such discrimination;

(c) Giving effect to its agreement with the Independent Metal Workers' Union signed on July 5, 1937.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer to Ralph Bates, Francis Davis, Menvil Stepp, immediate reinstatement to their former positions without prejudice to their seniority and other rights and privileges;

(b) Within a week after the Board's approval of the stipulation pay back pay by check One Hundred Dollars (\$100.00) to each of the following persons, respectively:

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Davenport, Iowa;

Donald Miller, Sully, Iowa;

Mark Sandusky, 2nd Street, Carbon Cliff, Illinois; and

Menvil Stepp, Route 1, Grinnell, Iowa;

(c) Withdraw all recognition from the Independent Metal Workers' Union as the representative of its employees or any of them for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, and completely disestablish the Independent Metal Workers' Union as the representative of its employees or any of them for the purposes of collective bargaining as provided in the following paragraph;

(d) Inform in writing the officers of the Independent Metal Workers' Union that the latter organization has been formed and administered in violation of the Act, and that the respondent will not in any manner deal with or recognize the Independent Metal Workers' Union for the purposes of collective bargaining on behalf of the respondent's employees;

(e) Post immediately in conspicuous places throughout all departments of its plant and maintain for a period of thirty (30) consecutive days from the date of posting, notices to its employees stating (1) that the respondent will cease and desist in the manner aforesaid; (2) that the respondent's agreement with the Independent Metal Workers' Union signed on July 5, 1937, is null, void, and of no effect; and (3) that the respondent will not discharge or in any manner discriminate in regard to hire or tenure of employment or any term or condition of employment of members of the International Association of Machinists, Local 1565, or any other labor organization, or any person assisting such organization, by reason of such membership or assistance;

(f) Notify the Regional Director for the Thirteenth Region in writing within ten (10) days from the date of the Board's order what steps the respondent has taken to comply therewith.